

REMARKS

Claim 1 is amended to include the limitations of claim 3, which is now canceled, and claim 15 is similarly amended. Claims 3, 8, and 12 are canceled without prejudice.

New claims 16-20 are added to claim the invention in alternative language. New independent claim 16 is thought to be patentable over the cited prior art because the combination of limitations does not appear to be suggested. Claim 16 sets forth a computer-implemented method for optimizing an executable program. The method includes generating the executable program code from a program that includes calls to functions in a library that is external to the program. In the executable program linkage stub segments are identified. Each linkage stub segment is limited to transferring control to executable code that implements a respective function of the library at a respective function address. Branch instructions that have target addresses that reference the linkage stub segments are identified in the executable program. In each of the identified branch instructions, the respective target address that references one of the linkage stub segments is replaced with the respective function address of the executable code that implements the respective function. This combination of limitations does not appear to be suggested by the prior art, and claim 16, and claims 17-20 depending therefrom, are thought to be allowable.

The Office Action repeats the rejection of claims 1, 2, and 15 over "Coutant" (US patent 6,665,671 to Coutant) under 35 USC §102(e). The rejection is respectfully traversed because the Office Action fails to show that all the limitations of the claims are taught by Coutant. As set forth in the Appeal Brief of April 7, 2005, the arguments of which are incorporated herein, Coutant is not shown to anticipate these claims. Therefore, the rejection of claims 1, 2, and 15 over Coutant should be withdrawn.

The Office Action fails to show that claims 1, 2 and 15 are anticipated by "Heisch" (US patent 6,006,033 to Heisch) under 35 USC §102(e). The rejection is respectfully traversed because the Office Action fails to show that all the limitations

of the claims are taught by Heisch. For example, Heisch does not appear to suggest a linkage stub code segment at the cited teachings. However, claim 1 is amended to include the limitations of claim 3, and claim 15 is similarly amended. Therefore, the rejection is now moot.

The Office Action does not establish that claims 3-5 are unpatentable under 35 USC §103(a) over Heisch in view of admitted prior art ("APA"). The rejection is respectfully traversed because the Office Action fails to show that all the limitations are suggested by the references, fails to provide a proper motivation for modifying the teachings of Heisch APA, and fails to show that the combination could be made with a reasonable likelihood of success.

The limitations of claim 3, which are now in claim 1, include searching a symbol table for an entry having a symbolic name that is a derivation of the first name and reading a linkage stub address associated with the symbolic name. The alleged correspondence of teachings of Heisch to these limitations is clearly in error.

The Office Action cites Heisch's FIG. 10, #81 (as described at col. 12, l. 8-14) as corresponding to the limitations of searching a symbol table. However, the cited teachings clearly indicate that the program is searched for a branch instruction. Thus, there is neither reference to a symbol table nor to searching for a name in the table. Thus, the alleged correspondence is clearly in error.

The APA simply discloses that underscores are sometimes added to names of external functions. There is no suggestion that the symbol table is searched for these derivations, nor any suggestion that the linkage stub address is read from the symbol table and used to update a target address of a branch instruction as claimed.

The alleged motivation for combining APA with Heisch is conclusory and improper. The alleged motivation states that "it would have been obvious ... to incorporate the method of derivative or having underscore in the name as taught in prior art into the method of optimizing the executable program code as taught by Heisch ... because of [sic] one of ordinary skill in the art would be motivated [to] have underscore or derivative of the name at the time of execution to differentiate the function name as suggested in prior art." The alleged motivation simply states the purpose of adding the underscore. The Office Action fails to provide any evidence that demonstrates a motivation for modifying Heisch to search the symbol

table for the derivations, read the associated addresses, and replace the target addresses accordingly. Therefore, the alleged motivation is simply a conclusion, and the Office Action omits an element needed to support a *prima facie* case of obviousness.

Claims 4 and 5 are similarly not shown to be unpatentable over the Heisch-APA combination.

The rejection of claims 3-5 over the Heisch-APA combination should be withdrawn because the Office Action fails to show all the limitations are suggested by the combination, fails to provide a proper motivation for combining the references, and fails to show that the combination could be made with a reasonable likelihood of success.

The Office Action fails to establish that claims 6, 7 and 11 are unpatentable under 35 USC §103(a) over Heisch in view of "Koizumi" (U.S. Patent Publication No. 2002/0026633 to Koizumi et al.). The rejection is respectfully traversed because the Office Action fails to show that all the limitations are suggested by the references, fails to provide a proper motivation for modifying the teachings of Heisch with teachings of Koizumi, and fails to show that the combination could be made with a reasonable likelihood of success.

The limitations of the base claims are not shown to be suggested by Heisch for at least the reasons set forth above.

The current Office Action repeats the alleged correspondences of teachings of Koizumi to the limitations of claims 6, 7, and 11 from the Office Action dated November 15, 2004. The current Office Action also repeats the alleged motivation from that prior Office Action. As set forth in the Appeal Brief of April 7, 2005, the arguments of which are incorporated herein, the alleged correspondences of the cited teachings of Koizumi to the claim limitations are clearly in error. Furthermore, the alleged motivation does not support a *prima facie* case of obviousness.

The rejection of claims 6, 7, and 11 over the Heisch-Koizumi combination should be withdrawn because the Office Action fails to show all the limitations are suggested by the combination, fails to provide a proper motivation for combining the references, and fails to show that the combination could be made with a reasonable likelihood of success.

The Office Action fails to establish that claims 8-9 and 12-14 are unpatentable under 35 USC §103(a) over Heisch and Koizumi in view of APA. The rejection is respectfully traversed because as set forth above in the traversals of the rejections based on the Heisch-APA combination and the Heisch-Koizumi combination, the Office Action fails to show that all the limitations are suggested by the references, fails to provide a proper motivation for making the combination, and fails to show that the combination could be made with a reasonable likelihood of success. Therefore, the rejection should be withdrawn.

Withdrawal of the rejections and reconsideration of the claims are respectfully requested in view of the remarks set forth above. No extension of time is believed to be necessary for consideration of this response. However, if an extension of time is required, please consider this a petition for a sufficient number of months for consideration of this response. If there are any additional fees in connection with this response, please charge Deposit Account No. 50-0996 (HPCO.049PA).

Respectfully submitted,

CRAWFORD MAUNU PLLC
1270 Northland Drive, Suite 390
Saint Paul, MN 55120
(651) 686-6633

By: 
Name: LeRoy D. Maunu
Reg. No.: 35,274